

A. H. VON LUETTZWITZ.

MAY 21, 1880.—Laid on the table and ordered to be printed.

Mr. BROWNE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 2721.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2721) to amend an Army officer's record, have had the same under consideration, and beg leave to report:

Lieut. A. H. Von Luettwitz, Third United States Cavalry, was tried by a general court-martial convened at Fort Leavenworth, Kans., May 2, 1870, upon the charges of having signed a false certificate to his pay in violation of the fourteenth Article of War, of presenting a false claim against the United States, and of conduct unbecoming an officer and a gentleman.

On the 8th day of July, 1870, he was found guilty by the court and sentenced to be dismissed the service. This sentence was approved, and Lieutenant Von Luettwitz was out of the service from the above date until June 23, 1874.

An act of Congress, approved June 23, 1874, for his relief, reads as follows:

[PRIVATE—No. 244.]

AN ACT for the relief of A. H. Von Luettwitz, late lieutenant, Third United States Cavalry.

Whereas, A. H. Von Luettwitz, late a first lieutenant in the Third United States Cavalry, who was cashiered from the United States service by sentence of a general court-martial on the eighth day of July, eighteen hundred and seventy, has established his innocence of the charges upon which he was so cashiered the United States service: Therefore;

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and is hereby, directed to amend the record of the said A. H. Von Luettwitz so that he shall appear on the rolls and records of the Army for rank as if he had been continuously in service: *Provided,* That nothing shall be paid to him for the interval of time from the eighth day of July, eighteen hundred and seventy, until the passage of this act.

Approved, June 23, 1874.

By this act he was restored to the service, and on the 9th day of September, 1876, in an attack upon the hostile Sioux was severely wounded in the right leg, making amputation above the knee necessary. On the 5th day of May he was retired with the rank of first lieutenant. By this bill he asks the pay and allowances of first lieutenant mounted, from the 8th day of July, 1870, the date of his dismissal, to the 23d day of June, 1874, the date of his restoration to the service.

Your committee do not deem it necessary to review the record of the court-martial by which this officer was convicted.

A former Congress has passed upon this and removed, as far as an act of Congress can, the infamy of a conviction. Taking it for granted that Lieutenant Von Luettwitz was not guilty of the charges upon which he was tried, your committee is nevertheless unwilling to grant the relief sought by this bill.

The bill restoring him to the service expressly provides that nothing shall "be paid him for the interval of time from the 8th day of July, 1870, until the passage of this act." He accepted the benefits of this bill and returned to the service under it. We think he is estopped from asking payment for the time covered by the proviso of this act.

True he has been severely wounded, but, as a result, he has been placed on the retired list upon an equality with other wounded and disabled officers, and is secured a life bounty from the government of \$1,440 per annum.

Under the circumstances your committee are constrained to report the bill adversely, and to recommend that it lie on the table.

